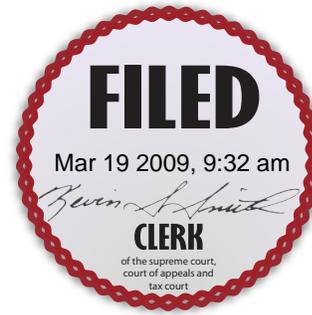


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

ROBERT D. KING, JR.
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

GARY DAMON SECREST
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

JOSEFINA HERNANDEZ-ROMULADO,)

Appellant-Defendant,)

vs.)

No.49A04-0811-CR-645)

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Steven Eichholtz, Judge
The Honorable Michael Jensen, Magistrate
Cause No. 49G20-0509-FA-152055

March 19, 2009

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Josefina Hernandez-Romulado (“Hernandez-Romulado”) was convicted in Marion Superior Court of Class A felony dealing in cocaine and Class D felony dealing in marijuana. She was originally sentenced to an executed, aggregate term of twenty-five years. However, after an appeal, the trial court resentenced Hernandez-Romulado to an executed, aggregate term of twenty years. Hernandez-Romulado appeals from the resentencing and argues that her sentence is inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

Facts and Procedural History

On September 5, 2005, following an anonymous tip, police interviewed Hernandez-Romulado and searched her car. During the course of the search, police discovered approximately 40 grams of powder cocaine and 880 grams of marijuana located in the trunk of her car. On September 7, 2005, the State charged Hernandez-Romulado with Class A felony dealing in cocaine, Class C felony possession of cocaine, Class D felony dealing in marijuana, and Class D felony possession of marijuana. On January 18, 2007, a jury convicted Hernandez-Romulado on all counts. The trial court entered convictions on the Class A felony dealing in cocaine and the Class D felony dealing in marijuana. On January 31, 2007, the trial court sentenced Hernandez-Romulado to twenty-five years for the Class A felony dealing in cocaine and one year for the Class D felony dealing in marijuana. Hernandez-Romulado appealed.

On December 31, 2007, in a memorandum decision, we affirmed Hernandez-Romulado’s convictions but remanded the case for re-sentencing based on the use of an

inappropriate aggravator.¹ Following remand, the trial court re-sentenced Hernandez-Romulado to a reduced, statutory-minimum sentence of twenty years executed. Hernandez-Romulado appeals.

Discussion and Decision

Hernandez-Romulado argues that her sentence was inappropriate.² A defendant may challenge her sentence under Indiana Appellate Rule 7(B) which provides: “The Court may revise a sentence authorized by statute if, after due consideration of the trial court’s decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender.” The Anglemyer Court explained:

It is on this basis alone that a criminal defendant may now challenge his or her sentence where the trial court has entered a sentencing statement that includes a reasonably detailed recitation of its reasons for imposing a particular sentence that is supported by the record, and the reasons are not improper as a matter of law, but has imposed a sentence with which the defendant takes issue.

Anglemyer v. State, 868 N.E.2d 482, 494 (Ind. 2007). “[A] defendant must persuade the appellate court that his or her sentence has met the inappropriateness standard of review.”

Id.

Hernandez-Romulado’s car was discovered with approximately forty grams of powder cocaine and 880 grams of marijuana. Although Hernandez-Romulado has little or no criminal history, her conviction was for possession of a large amount of illicit drugs. For context, Hernandez-Romulado possessed more than thirteen times the amount of cocaine needed to elevate dealing in cocaine to a Class A felony and almost thirty

¹ Hernandez-Romulado v. State, No. 49A02-0703-CR-221 (Ind. Ct. App. Dec. 31, 2007).

² Although Romulado raised this issue during her first appeal, another panel of this court remanded for resentencing without addressing the appropriateness of Romulado’s sentence under Indiana Appellate Rule 7(B).

times the amount of marijuana needed to elevate dealing in marijuana to a Class D felony. Ind. Code § 35-48-4-1 (b)(1); Ind. Code § 35-48-4-10 (b)(1)(B) (2004).

The trial court's imposition of the minimum sentence is indicative of and adequate in its acknowledgement of Hernandez-Romulado's mitigating circumstances. As such, under the facts and circumstances of this case, Hernandez-Romulado's twenty-year sentence was not inappropriate.

Affirmed.

BAILEY, J., and BARNES, J., concur.